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**To:** Examiner Cheryl Ann Juska  
Art Unit 1771

**From:** Daniel R. Alexander  
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**Subject:** Application of: Higgins et al.  
Serial Number: 09/721,871  
Filed: November 24, 2000  
Title: Cushioned Carpet, Carpet Tile,  
and Method  
Attorney Docket No.: 5113

**Date:** March 16, 2006

**Pages:** 5 pages

**Comments:**

Response to Notice of Improper Request for Continued Examination (RCE) with attachments –

Response – 2 pages

Attachments – 2 pages (1 page - copy of PAIR printout and 1 page – Notice of Improper Request for Continued Examination (RCE) return copy)

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**MAR 16 2006**

Case No. 5113

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: Higgins et al.  
Serial Number: 09/721,871  
Filed: November 24, 2000  
For: Cushioned Carpet, Carpet Tile, and Method  
Group Art Unit: 1771  
Examiner: Juska, Cheryl Ann

**RESPONSE TO NOTICE OF IMPROPER REQUEST  
FOR CONTINUED EXAMINATION (RCE)**

**Mail Stop Non-Fee Amendment**  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Contrary to the Notice mailed March 3, 2006, Applicants respectfully believe that the RCE filed on February 21, 2006 was proper in that the RCE included an IDS (a required submission).

In accordance with MPEP Section 706.07(h) Request for Continued Examination (RCE) Practice,

“a submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability.”

Applicants submitted an IDS as noted on the attached PAIR printout.

U.S. PTO Customer No. 25280

Case No. 5113

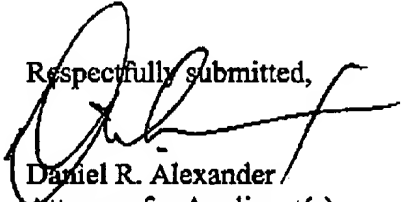
Also submitted herewith is a copy of the Notice.

Applicants respectfully request that the RCE be granted and that the IDS be considered.

Should any fees be required for consideration of this response, the RCE, or the IDS, authorization is provided to deduct any additional fee as may be required from Deposit Account No. 04-0500.

Respectfully submitted,

March 16, 2006

  
Daniel R. Alexander  
Attorney for Applicant(s)  
Registration Number 32,604  
Spartanburg, SC 29304  
Telephone Number: (864) 503-1372

Attachments

#### CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being sent to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on March 16, 2006, by facsimile to 571-273-8300.

  
Daniel R. Alexander, Attorney for Applicant(s)



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09/721,871 Cushioned carpet, carpet tile, and method

[Application Data](#) | [Transaction History](#) | [Image File](#) | [Electronic Address](#) | [File Wrapper](#) | [Image File](#) | [Electronic Address](#) | [File Wrapper](#)

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Print: Check the desired document(s) and click StartDownload.

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03-03-2006	Miscellaneous Action with SSP	2
02-21-2006	Fee Worksheet (PTO-875)	2
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02-21-2006	Transmittal to TC	1
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Commissioner for Patents  
United States Patent and Trademark Office  
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www.uspto.gov

APPLICATION NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE

09/721871

DATE MAILED:

## NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 2/21/06 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on \_\_\_\_\_. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☒ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

A copy of this notice **MUST** be returned with any reply.

Direct the reply and any questions about this notice to:

Nicole Hensley, Examining Group 1700  
703-30 571-272-1026  
FORM PTO-2051 (Rev. 3/2001)